

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Commerce Commission</b>	)	
<b>On Its Own Motion</b>	)	
	)	
<b>Investigation into the Customer Authorization</b>	)	<b>Docket No. 15-0073</b>
<b>Required for Access by Third Parties Other</b>	)	
<b>Than Retail Electric Suppliers to Advanced</b>	)	
<b>Metering Infrastructure Interval Meter Data</b>	)	

**Verified Initial Comments of  
The Citizens Utility Board and Environmental Defense Fund**

Now comes the Citizens Utility Board (“CUB”) and the Environmental Defense Fund (“EDF”), through their attorneys, pursuant to Section 200. 800 of the Rules of Practice of the Illinois Commerce Commission ("ICC" or "the Commission") hereby submit these Verified Initial Comments in the above-captioned proceeding. 220 ILCS 83 Ill. Admin. 200.800. In this proceeding, the ICC seeks to investigate the need for, and form of, customer authorization required for access by third parties, other than Retail Electric Suppliers (“RES”), to Advanced Metering Infrastructure (“AMI”) interval meter data. ICC Initiating Order at 1 (January 28, 2015).

It is important that the Commission outline clear and streamlined customer authorization language and processes that can be implemented quickly and easily by the utilities and non-RES third parties while at the same time ensuring appropriate disclosures are given to customers and that appropriate verification of authorization is provided for. Doing so will provide necessary protection for utilities and consumers while also encouraging innovation enabled by AMI data such as new dynamic pricing options, expanded energy efficiency programs, and new in-home energy management technologies

that will, taken together, provide Illinois customers with a chance to directly benefit from smart grid investments by creating a more precise window into how they use electricity.

## **I. Procedural Background**

On August 8, 2014, CUB and EDF filed a petition to initiate a proceeding to adopt the Illinois Open Data Access Framework (“Framework”). In response to the petition, the Commission opened Docket No. 14-0507. The purpose of Docket No. 14-0507 is “to review, refine and adopt the Framework as the governing standards for access to customer usage data by customers, utilities, and third parties (any party other than the customer and the utility).” CUB/EDF Ver. Petition at 1, Docket No. 14-0507. On December 17, 2014, CUB/EDF filed a revised Framework and a Motion to Stay Docket No. 14-0507 until May 1, 2015:

[D]uring which the parties would work in good faith through workshops to consider remaining data access issues and gain greater clarity about timing expectations and requirements for [AMI] data. This would include, without limitation, considering those elements identified generally in the Framework...: Types of Data, Data Format, Method of Delivery, Timeliness, Data Security and Charges for Data Access. The parties are not restricted to only those elements identified generally in the Framework, but rather agree that such elements provide a useful guide for workshop discussions.

CUB/EDF Motion to Stay at 2, Docket No. 14-0507.

In addition, the Motion to Stay states that, within 30 days of the granting of the Motion, ICC Staff (“Staff”) would file a report requesting that the Commission open a docket pursuant to Section 10-101 of the Public Utilities Act (“PUA” or “the Act”). (220 ILCS 5/10- 101). The purpose of the docket would be to separately address the need for and the form of any customer authorization required for access by third parties as agents of customers, other than RES, to AMI interval meter data. 220 ILCS 5/16-122(a). In response, the Commission initiated Docket No. 15-0073 on January 28, 2015 with the

purpose of “investigat[ing] the need for, and form of, customer authorization required for access by third parties, other than Retail Electric Suppliers, to Advanced Metering Infrastructure interval meter data.” ICC Initiating Order at 2 (January 28, 2015).

CUB and EDF proposed a common outline for these Verified Initial Comments on February 18, 2015, and have followed that outline in these comments.

## **II. Joint Comments of CUB and EDF**

### **a. The Need for Commission Direction on Customer Authorization**

In its Initiating Order, the Commission states that it is investigating the need for laying out rules regarding customer authorization for non-RES third party access to usage data. ICC Initiating Order at 1 (January 28, 2015). Empowering customers to take full advantage of AMI infrastructure, including smart meters, is imperative given the massive investment of ratepayer dollars by Commonwealth Edison Company (“ComEd”) and Ameren Illinois Company (“Ameren” or “AIC”) in the coming years as required by the Energy Infrastructure Modernization Act (“EIMA”). While participation in the EIMA is voluntary, both ComEd and Ameren have opted to participate. Establishing guiding principles, approving standard authorization language, and outlining acceptable authorization procedures will provide well-defined expectations for utilities and non-RES third parties while simultaneously providing a clear and streamlined authorization process for customers that will allow them to enjoy the benefits of usage data generated by their smart meters.

The EMIA requires that ComEd “over a 10 year period, invest an estimated \$1,300,000,000 to upgrade and modernize its transmission and distribution infrastructure and in Smart Grid electric system upgrades, including, but not limited to...smart meters,” while Ameren is required to invest an estimated \$360,000,000 over the same time period.

220 ILCS 5/16-108.5(b)(1)(B) and 220 ILCS 5/16-108.5 (b)(2)(B). According to their most recent filings at the ICC, ComEd is expected to complete its deployment of 4,157,000 smart meters by 2018, while Ameren is expected to complete its deployment of 780,000 smart meters by 2019. *ComEd Smart Grid Advanced Metering Annual Implementation Progress Report: Appendix F, Revised Smart Grid Advanced Metering Infrastructure Deployment Plan with Accelerated Deployment* (April 1, 2014) at 22 and *Ameren Modernization Action Plan: Infrastructure Investment Plan 2012-2021* (April 1, 2014) at 120.

Creating a streamlined process for customer authorization and data access holds tremendous value. Maximizing consumer access to more granular information about their energy consumption allows them to select applications such as energy management software or devices (such as smart thermostats) that fit their needs, and allows for the development and adoption of innovative products and services to assist consumers in managing energy consumption and expenditures.<sup>1</sup>

Studies have shown that customer access to real-time consumption information has a significant impact on energy efficiency, demand response, and behavior change. For example, a 2010 report by the American Council for an Energy-Efficient Economy (“ACEEE”) found that, if customers are given context, suggestions, and encouragement, household energy savings from smart meter interval data could potentially be as high as 12 percent.<sup>2</sup> This requires not just timely access to data, but an unlocking of the innovation of the third-party software and hardware development community to provide the necessary feedback and control mechanisms.

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<sup>1</sup> Statement of national policy adopted from *EISA, National Broadband Plan, White House 21<sup>st</sup> Century Grid, Sen. Udall E-Access Bill*.

<sup>2</sup> “Advanced Metering Initiatives and Residential Feedback Programs: A Meta-Review for Household Electricity-Saving Opportunities,” *American Council for an Energy-Efficient Economy*; June 2010 --- ACEEE Report Number E105, <http://sedc-coalition.eu/wp-content/uploads/2011/06/ACEEE-08-06-01-Energy-Information-Feedback-Studies1.pdf>.

Access to interval data greatly facilitates the creation of a robust marketplace of energy devices and services for customers. For instance, timely access to such data supports the implementation of dynamic pricing programs that reflects the true time-variant cost of energy (e.g. time-of-use rates, critical peak pricing, etc.). Dynamic rates further support marketplace development by allowing customers to maximize the benefits of distributed generation, electric vehicles, energy storage, and “smart” technologies that encourage customers to reduce their usage when electricity prices are at their highest.

Without a simple, streamlined authorization process that balances the need for adequate customer disclosure, many of these opportunities will be lost. Conversely, using an unnecessarily lengthy and cumbersome authorization process will be confusing and discourage active participation and investment from customers.

"Smart Grid" infrastructure and investment, if leveraged to its full potential, will dramatically transform the way customers use energy, enabled in large part by smart meters and the readily accessible usage data they produce.

For the purposes of these Comments, CUB and EDF have used the following terms as defined below:

- **Authorization Format:** The physical means by which customer consent is obtained (e.g., electronic signature, wet signature, text message, recorded phone conversation, etc.).
- **Authorization Language:** Language that informs a customer that he/she is providing consent for non-RES third parties to access his/her usage data from the customer's respective utility.
- **Authorization Process:** The step-by-step method of presenting authorization language to a customer, obtaining customer consent, validating that the consent is

genuine, and releasing the customer's usage data to the authentic non-RES third party.

- **Warrant:** Confirmation, similar to an affidavit, provided by a non-RES third party to a utility that verifies that the third party has obtained authentic customer authorization.

## **b. Guiding Principles**

It is important to establish foundational principles that govern the process, format, and expectations associated with customer authorization. Doing so provides a framework for utilities, non-RES third parties, the Commission, and other stakeholders in which to operate as they determine the process for verifying customer authorization that strikes the most appropriate balance between ensuring adequate protection and ease of access.

With these broad standards and goals in mind, CUB and EDF propose the following guiding principles for adoption in Illinois based the questions raised in this docket and the CUB/EDF Framework.

- **Ownership:** The customer is the principal owner of that customer's usage data and has the ability to authorize the utility to share his/her usage data with non-RES third parties. The customer can revoke non-RES third party access at the customer's discretion.
- **Simplicity:** Minimizing customer confusion and the administrative burden for utilities and non-RES third parties should be a priority. As such, the process and method for obtaining, verifying, and exchanging customer authorization for non-RES third parties should be as simple, clear, and streamlined as possible. This includes allowing for flexibility when it comes to the means of obtaining authorization to

ensure that the most straightforward format may be used (e.g. electronic signature, wet signature, recorded phone conversation, text message, etc.). The same methods should be acceptable in the case of a customer's decision to de-authorize non-RES third party access to his/her usage data.

- **Standardized:** To the extent practical, the language and process used for customer authorization should be standardized. Doing so will ensure that the customer is adequately and appropriately informed while also providing certainty for utilities and non-RES third parties. Standard language easily allows stakeholders and the Commission to determine whether or not adequate customer disclosure was provided.
- **Self-policing:** To the greatest extent possible, the established authorization process should provide adequate disclosure and protection without regular involvement from the Commission and regular discretionary oversight from utilities. The process should minimize the extent to which utilities are expected to approve or disapprove access of non-RES third parties based on their intent. Doing so will minimize the administrative burden placed on utilities.
- **Verifiable:** It is important that customer authorization be verifiable. This is means that: (1) there should be a means by which customer identity is verified as protection against identity theft; and (2) the non-RES third party must not be able falsify customer authorization when requesting access from the utility. A simple method for such authentication should be established.
- **Term of authorization:** The default term of authorization should expire after 24 months. Authorization may be renewed automatically if a customer renews his/her service contract with a non-RES third party. A customer has the ability to de-

authorize third party access to his/her usage data at any time; otherwise the utility shall deny third party access to usage data upon expiration of authorization.

Additionally, the utility may deny third party access to usage data upon notification of the termination of service between the customer and said third party.

These principles proposed by CUB and EDF comport with many best practices related to access to electricity usage data including the U.S. Department of Energy's ("DOE") January 2015 guide entitled *Data Privacy and the Smart Grid: A Voluntary Code of Conduct (VCC)*. While the VCC is fairly high-level and broad in its recommendations, CUB and EDF have tailored many of its guiding principles to specifically apply to Illinois and question of non-RES third party authorization currently before the Commission. The VCC guiding principles that helped inform CUB and EDF in this process include:

- (1) encourage innovation while appropriately protecting the privacy and confidentiality of Customer Data and providing reliable, affordable electric and energy-related services;
- (2) provide customers with appropriate access to their own Customer Data; and
- (3) do not infringe on or supersede any law, regulation, or governance by any applicable federal, state, or local regulatory authority.

DOE *Data Privacy and the Smart Grid: A Voluntary Code of Conduct (VCC)* at 1.

The VCC is divided into five core concepts, most of which apply to questions raised in this docket:

- **Customer Notice & Awareness:** The concept that customers should be given notice about privacy-related policies and practices as part of providing service. Service Providers should provide materials in various formats that are easily understandable by the demographics they serve, and as may be reasonably appropriate. Notice should be given at the start of service, on some reoccurring basis (e.g., annually) thereafter, and at the customer's request. Notice also should be given when there is a substantial change in procedure or ownership that may impact customer data. This could include, for example, timing disclosures to coincide with the time and place that customers have the ability to exercise choices (e.g., push notifications for software downloads) regarding the use of their CEUD [Customer Energy Usage Data] for new purposes materially different than those for which it was originally collected. Notice should be clear and conspicuous.



- **Customer Choice & Consent:** The concept that customers should have a degree of control over access to their Customer Data. Service Providers and their Contracted Agents require Customer Data to support Primary Purposes. For Secondary Purposes, however, customers should be able to control access to their Customer Data via a customer consent process which is convenient, accessible, and easily understood. This could include, for example, timing disclosures to coincide with the time and place that customers have the ability to exercise choices (e.g., push notifications for software downloads) regarding the use of their CEUD for new purposes materially different than those for which it was originally collected.
- **Customer Data Access:** The concept that customers should have access to their own Customer Data and should have the ability to participate in its maintenance.
- **Data Integrity & Security:** The concept that Customer Data should be as accurate as reasonably possible, and secured against unauthorized access. Data should be maintained in a reasonably accurate and complete form, considering the circumstances and environment in which it has been collected (e.g., recognizing the difference between raw meter data and bill-ready data). Data should be protected via a cybersecurity risk management program.
- **Self Enforcement Management & Redress:** [T]he concept that there should be enforcement mechanisms to ensure compliance with the foregoing concepts and principles.

DOE *Data Privacy and the Smart Grid: A Voluntary Code of Conduct (VCC)* at 5, 7, 10, 11, 13.

### **c. Authorization Language**

It is important that the process for obtaining customer authorization be as simple and clear as possible to ease the administrative burden placed on utilities and non-RES third parties while at the same time providing adequate transparency to customers. Establishing standardized authorization language accomplishes this goal by ensuring that every customer is supplied with identical information when it comes to providing informed consent. It also allows the Commission and stakeholders to easily determine if a third party has adequately provided customers with such information. To that end, CUB/EDF propose that the following language be used when obtaining authorization:

I, [CUSTOMER NAME] authorize [UTILITY] to provide my electricity usage information to [NAME OF THIRD PARTY] for the purposes of participating in [PROGRAM NAME]. This information includes my electricity usage levels for distinct time periods no longer than 60 minutes to the extent this information has been recorded and retained by [UTILITY].

This authorization will expire (a) after 24 months unless otherwise specified in the terms of service agreement with [NAME OF THIRD PARTY], (b) upon notification of the termination of service with [NAME OF THIRD PARTY] or (c) upon notification that I have revoked [NAME OF THIRD PARTY]'s authorization to access my usage information.

#### **d. Authorization Process**

While authorization language should be standardized, the format used to obtain consent should remain flexible as to allow for the simplest and most appropriate exchange between customers and non-RES third parties. For example, non-RES third parties should be permitted to obtain authorization from a customer via an electronic signature, wet signature, recorded phone conversation, text message, etc. according to the format that is most convenient at the time. The same formats should be acceptable in the case of a customer's decision to de-authorize non-RES third party access to his/her usage data.

In addition to providing standardized language and allowing for somewhat flexible authorization format, it is important to consider the step-by-step process by which: (a) a customer is to authorize a non-RES third party, and (b) the non-RES third party proves to the utility that the authorization is authentic and begins accessing the customer's usage data. In establishing this process, the Commission should seek to strike a balance between clearly defining expectations and not being overly prescriptive as to unnecessarily restrict flexibility. CUB and EDF have identified three common scenarios in which a customer may wish to authorize a non-RES third party to access his/her usage data as well as accompanying authorization processes. It is important to note that these scenarios are not

necessarily a comprehensive list, but they provide examples of what a standardized authorization process may look like in common situations:

- **Scenario #1:** In Scenario #1, a non-RES third party collects authorization from multiple customers and then offers a warrant and the authorizing customers' account numbers to the utility. In this case, a warrant is simply a confirmation, provided by a non-RES third party to a utility that verifies that the third party has obtained authentic customer authorization. For example, a non-RES third party may set up an information booth at a Chicago cultural festival in an effort to recruit customers. In this case, the third party would obtain customer authorization and account numbers from dozens of customers over the course of the festival and would submit this to the utility via a warrant as proof of consent.

#### Scenario 1 – Warrant (bulk authorization)

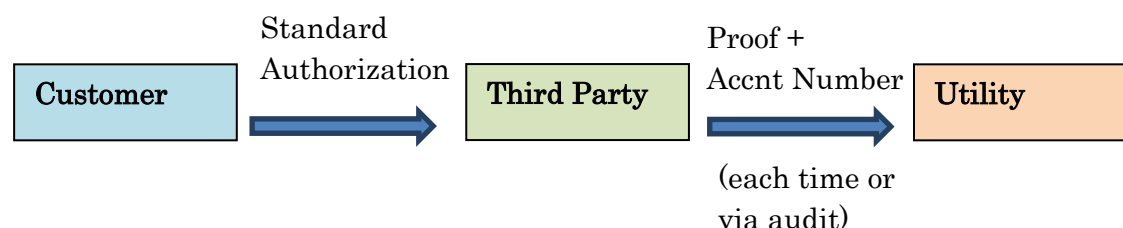
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- **Scenario #2:** In Scenario #2, a customer gives authorization to the non-RES third party who submits proof of authorization and customer account number to the utility each time usage is accessed. A solar panel installer who requests on-time access to a customer's usage data is an example that would fall into Scenario #2.

## Scenario 2 – One-time data access (for those not set up for Green Button)

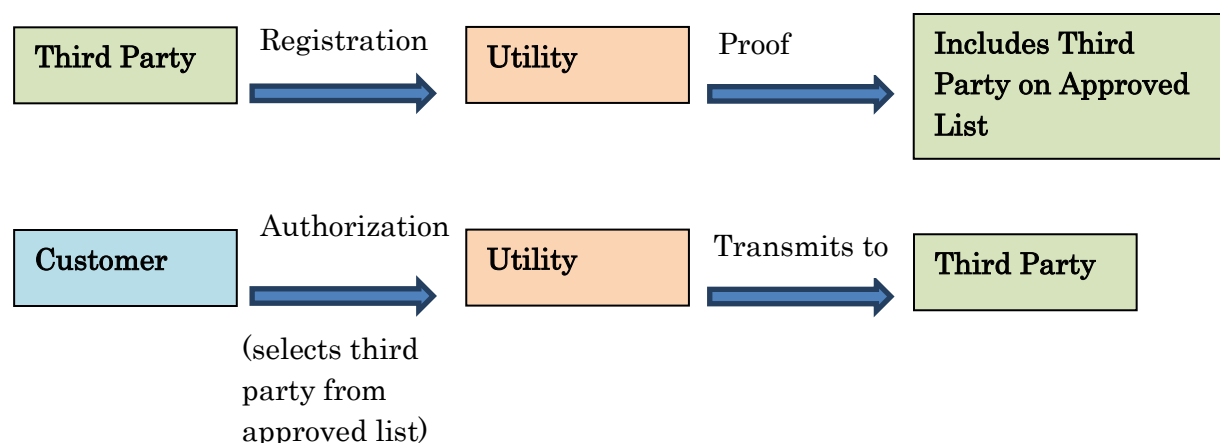
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- **Scenario #3:** The third party registers with the utility to be on a utility-maintained list of third parties who can receive individual customer usage data electronically. The customer selects the third party from the utility list, and upon selection, the third party receives usage data for that customer from the utility. While this process of a customer choosing a third party would ideally and most commonly take place via the utility’s website, there may be other ways to facilitate this exchange (i.e. via a written form) such as in a case where internet connection is not available to a customer. A customer who wishes to authorize a non-RES third party to access his/her data on an ongoing basis and does so through the utility’s website is an example that would fall into Scenario #3.

## Scenario 3 – Ongoing data access (Green Button Connect)

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### III. Conclusion

WHEREFORE, the Citizens Utility Board and the Environmental Defense Fund respectfully submit these Verified Initial Comments in the above-captioned proceeding.

Dated: March 9, 2015

Respectfully submitted,



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